

## REMARKS

Applicants wish to thank the Examiner for extending the courtesy of conducting a telephonic interview in this application on October 19, 2007 with one of their attorneys to discuss the outstanding rejections and proposed claim amendments. It is believed that this response, in conjunction with the Examiner's Interview Summary dated October 26, 2007, represents a complete written statement as to the substance of the interview, in accordance with M.P.E.P. § 713.04.

As discussed during the interview, this application has been reviewed in light of the Office Action dated July 24, 2007. Claims 12-14, 35-37, 58-60, 81-83, 93-98, 100-107, 109-116, 118-125 and 127-128 are presented for examination, of which Claims 12, 35, 58, and 81 are in independent form. Claims 99, 108, 117 and 126 have been canceled without prejudice or disclaimer of subject matter. Claims 12-14, 35-37, 58-60, 81-83, 93-98, 100-107, 109-116, 118-125, and 127-128 have been amended to further clarify the claimed subject matter. Favorable reconsideration is requested.

Claims 102-110 were rejected under 35 U.S.C. § 112, second paragraph, as being incomplete for omitting essential steps; and claims 93-101 and 111-128 were rejected 35 U.S.C. § 112, second paragraph, as being incomplete for omitting essential elements. Without conceding the propriety of this rejection and to expedite the allowance of the present application, Applicants have carefully reviewed and amended Claims 102-110, 93-101 and 111-128 as deemed necessary, to ensure that they conform fully to the requirements of Section 112, second paragraph, with special attention to the points raised in sections 1 and 2 of the Office Action. Cancellation of Claims 99, 108, 117 and 126, renders the rejections of those claims moot. It is believed that the rejections under Section 112, second paragraph, have been obviated, and their withdrawal is therefore respectfully requested.

The Office Action states that Claims 12-14, 35-37, 58-60, 81-83 and 93-128 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,795,823 (*Aklepi et al.*).

Applicants submit that independent Claims 12, 35, 58, and 81, together with the claims dependent thereon, are patentably distinct from the cited prior art for at least the following reasons.

The aspect of the present invention set forth in Claim 12 is directed to a system for diverting a quantity of in-transit units having a product number including a diversion control server and a terminal. The diversion control server includes a processor configured to calculate estimated time of arrivals (“ETAs”) to destinations for at least one in-transit unit having the product number and a due date associated with the ETAs by which a diversion request must be completed to cause the quantity of in-transit units to be diverted. In addition, the diversion request is based in part on the ETAs. The terminal is configured to transmit to the diversion control server product inquiry information including the product number, to receive from the diversion control server the ETAs and the due date, and to transmit to the diversion control server the diversion request to cause the diversion control server to divert the quantity of in-transit units.

One notable feature of Claim 12 is “calculate[ing] a plurality of estimated time of arrivals to a plurality of destinations for at least one in-transit unit having the product number and a due date associated with the plurality of estimated time of arrivals by which a diversion request must be completed to cause the quantity of in-transit units to be diverted, wherein the diversion request is based in part on the estimated time of arrivals.” By virtue of this feature, multiple ETAs are considered in making the diversion request. In addition, a due date associated with the multiple ETAs provides a deadline by which a

diversion request must be made to cause the in-transit units to be diverted in time to realize the calculated ETAs.

As submitted during the telephonic interview, the system of *Aklepi et al.* requires changing routing optimization variables and entering routing options to calculate routes for each article multiple times to obtain different sets of data. Nothing has been found in *Aklepi et al.* that would teach or suggest “a diversion control server including a processor configured to calculate a plurality of estimated time of arrivals to a plurality of destinations for at least one in-transit unit having the product number and a due date associated with the plurality of estimated time of arrivals by which a diversion request must be completed to cause the quantity of in-transit units to be diverted, wherein the diversion request is based in part on the estimated time of arrivals” or “a terminal configured...to transmit to the diversion control server the diversion request to cause the diversion control server to divert the quantity of in-transit units,” as recited in Claim 12. Assuming, *arguendo*, that *Aklepi et al.* system could be operated multiple times to obtain multiple ETAs, Applicants submit that it still fails to use multiple ETAs as a basis for a diversion request or provide a deadline by such a diversion request must take place.

Accordingly, Applicants submit that Claim 12 is patentable over the cited art, and respectfully request withdrawal of the rejection under 35 U.S.C. § 103(a).

Independent Claims 35, 58 and 81 are method, system and computer-readable storage medium claims respectively corresponding to Claim 12, and are believed to be patentable for at least the same reasons as discussed above in connection with Claim 12.

The other rejected claims in this application depend from one or another of the independent claims discussed above and, therefore, are submitted to be patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional

aspect of the invention, individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

This Amendment After Final Action is believed clearly to place the present application in condition for allowance. Therefore, entry of this Amendment under 37 C.F.R. § 1.116 is believed proper and is respectfully requested, as an earnest effort to advance prosecution and reduce the number of issues. Should the Examiner believe that issues remain outstanding, it is respectfully requested that the Examiner contact Applicants' undersigned attorney in an effort to resolve such issues and advance the case to issue.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

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Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

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